

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
EASTERN DIVISION

MICHAEL H. WILLIAMSON, et al.,	:	
	:	Case No. C2-06-292
Plaintiffs,	:	
	:	Judge Marbley
-vs-	:	
	:	Magistrate Judge Kemp
RECOVERY LIMITED	:	
PARTNERSHIP, et al.,	:	
	:	
Defendants.	:	

THE DISPATCH PRINTING	:	
COMPANY, et al.,	:	Case No. C2-06-292
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Plaintiffs,	:	Judge Marbley
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	:	
GILMAN D. KIRK, et al.,	:	
	:	
Defendants.	:	

MOTION OF JUDGMENT CREDITOR
THE DISPATCH PRINTING COMPANY
FOR ORDER OF GARNISHMENT OF PROPERTY OTHER
THAN PERSONAL EARNINGS

Pursuant to Fed.R.Civ.P. 69, Judgment Creditor The Dispatch Printing Company (“The Dispatch”) moves the Court to issue a Writ of Execution and/or Order of Garnishment of Property Other Than Personal Earnings against the Judgment Debtor Thomas G. Thompson naming the United States Marshals (“USMS”) as Garnishee. The grounds for this Motion are discussed more fully in the attached Memorandum In Support.

Respectfully submitted,

/s/ Steven W. Tigges
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Bradley T. Ferrell (0070965)
Ariel A. Brough (0090712)
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Attorneys for Judgment Creditor
Plaintiff The Dispatch Printing Company

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MEMORANDUM IN SUPPORT

Fed.R.Civ.P. 69(a) provides the means to execute upon a monetary judgment obtained in federal court: “A money judgment is enforced by writ of execution, unless the court directs otherwise.” However, Rule 69 requires that the “procedure on execution – and in proceedings supplementary to and in aid of judgment or execution – must accord with the procedure of the state where the court is located...” *Id.* (emphasis added).

Judgment Creditor The Dispatch is entitled to the requested Order because, on June 25, 2013 this Court awarded a judgment of \$134,500.60 in favor of The Dispatch and against a number of Defendants, including Thomas G. Thompson, in *Williamson et al. v. Recovery Limited Partnership et al.*, 2:06-cv-292 (Doc. No. 867) (Marbley, J.), and on January 27, 2015, Garnishee the United States Marshals Service (“USMS”) arrested Thompson – a fugitive from justice – at the Hilton Boca Raton Suites in Boca Raton, Florida and took control of cash and other personal property found in Thompson’s possession or control. More specifically, upon information and belief, the USMS has possession or control of approximately \$420,000 in cash found in Debtor Thompson’s possession upon his arrest and also has possession or control of cash or personal property found in four storage units located around southern Florida, documentation for the rental of which was also found in Thompson’s possession upon his arrest.

There are two procedures under Ohio law for garnishing the property of a judgment debtor: garnishment of personal earnings and garnishment of property other than personal earnings. Sections 2716.11 to 2716.21 of the Ohio Revised Code, which outline the procedure for garnishing personal property other than personal earnings, apply to the present execution proceedings since personal earnings are defined as “money, or any other consideration or thing of value, that is paid or due to a person in exchange for work, labor, or personal services

provided by the person to an employer.” R.C. 2716.01(C)(2).

Thus, Creditor The Dispatch respectfully requests this court to issue a Writ of Execution/Order for Garnishment of Property Other than Personal Earnings pursuant to Fed.R.Civ.P. 69(a) and R.C. 2716.11-R.C. 2617.21. For the convenience of this Court and its Clerk – and as provided for by statute – the documents required under the procedures outlined in R.C. 2716.11 to R.C. 2617.21 are attached to this Motion. These include (1) the Affidavit of Counsel for Creditor The Dispatch required by R.C. 2716.11, (2) the order and notice of garnishment and answer of garnishee forms required by R.C. 2716.13(B), and (3) the notice and request for hearing forms for the judgment debtor required by R.C. 2716.13(C).

The last known address of Debtor Thompson is West Palm Beach Detention Center, Jacket No. 0464653, Cell No. S10B, P.O. Box 24716, West Palm Beach, Florida, 33416.

/s/ Steven W. Tigges
Steven W. Tigges, Trial Attorney (0019288)
Bradley T. Ferrell (0070965)
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ferrell@litohio.com
brough@litohio.com

Attorneys for Judgment Creditor
Plaintiff The Dispatch Printing Company

CERTIFICATE OF SERVICE

A copy of the foregoing was filed electronically this 12th day of February, 2015. Notice of this filing and a copy of the pleading will be sent to all parties by operation of the Court's electronic filing system. Parties may access this filing through the Court's system.

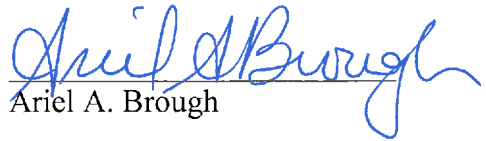
/s/ Steven W. Tigges
Steven W. Tigges, Trial Attorney (0019288)

**AFFIDAVIT IN SUPPORT OF MOTION FOR ORDER
OF GARNISHMENT OF PROPERTY OTHER THAN PERSONAL EARNINGS**

The undersigned, Ariel A. Brough, the attorney for Judgment Creditor The Dispatch Printing Company, being first duly sworn, states that:

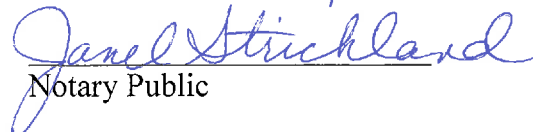
1. The name of the Judgment Debtor whose property, other than personal earnings, the Judgment Creditor seeks to garnish is Thomas G. Thompson.
2. The Affiant has good reason to believe and does believe that the Garnishee United States Marshal's Service, located at 85 Marconi Boulevard, Room 460, Columbus, Ohio 43215, has possession or control of property, other than personal earnings, of the Judgment Debtor that is not exempt under laws of this State or the United States.
3. The property is described as follows: (1) approximately \$420,000 in cash found in the possession of Thompson upon his arrest in Boca Raton, Florida on January 27, 2015 and (2) property stored in four rented storage units located around southern Florida, documentation of which was found in the possession of Thomas G. Thompson upon his arrest on January 27, 2015.
4. The Judgment Creditor has obtained judgment against the Judgment Debtor which remains unsatisfied. *Williamson et al. v. Recovery Limited Partnership et al.*, 2:06-cv-292, (Doc. No. 867) (S.D. Ohio, June 25, 2013) (Marbley, J.).

Signed at Columbus, Ohio on February 12, 2015.


Ariel A. Brough

State of Ohio)
) SS:
County of Franklin)

Sworn to, before me, and subscribed in my presence this 12th day of February, 2015.


Notary Public

JANEL STRICKLAND
Notary Public, State of Ohio
My Commission Expires 07-09-2018

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
EASTERN DIVISION

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	:	
Defendants.	:	

ORDER AND NOTICE OF GARNISHMENT
OF PROPERTY OTHER THAN PERSONAL EARNINGS
AND ANSWER OF GARNISHEE

SECTION A. COURT ORDER AND NOTICE OF GARNISHMENT

To: The United States Marshals Service, U.S. Courthouse, 85 Marconi Boulevard, Room 460, Columbus, OH 43215, Garnishee

The judgment creditor in the above case has filed an affidavit, satisfactory to the undersigned, in this Court stating that you have money, property, or credits, other than personal earnings, in your hands or under your control that belong to the judgment debtor, and that some of the money, property, or credits may not be exempt from garnishment under the laws of the State of Ohio or the laws of the United States.

You are therefore ordered to complete the "ANSWER OF GARNISHEE" in section (B) of this form. **Return** one completed and signed copy of this form to the clerk of this court together with the amount determined in accordance with the "ANSWER OF GARNISHEE" **by the following date on which a hearing is tentatively scheduled** relative to this order of garnishment: _____. Deliver one completed and signed copy of this form to the judgment debtor prior to that date. Keep the other completed and signed copy of this form for your files.

The total probable amount now due on this judgment is \$134,770.97. The total probable amount now due includes the unpaid portion of the judgment in favor of the judgment creditor, which is \$134,500.60; post-judgment interest on that judgment at a rate of .13% until that judgment is satisfied in full; and any prejudgment interest and court costs.

You also are ordered to hold safely anything of value that belongs to the judgment debtor and that has to be paid to the court, as determined under the "ANSWER OF GARNISHEE" in section (B) of this form, but that is of such a nature that it cannot be so delivered, until further order of the court.

IT IS SO ORDERED.

**ALGENON L. MARBLEY
UNITED STATES DISTRICT JUDGE**

UNITED STATES DISTRICT COURT
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	:	
Defendants.	:	

ANSWER OF GARNISHEE

SECTION B. ANSWER OF GARNISHEE

Now comes _____ the
garnishee, who says:

1. That the garnishee has money, property, or credits, other than personal earnings, of the judgment debtor under the garnishee's control and in the garnishee's possession.

yes

no

if yes, amount over \$400

2. That property is described as: _____

3. If the answer to line 1 is "yes" and the amount is less than the probable amount now due on the judgment, as indicated in section (A) of this form, sign and return this form and pay the amount of line 1 to the clerk of this court.
4. If the answer to line 1 is "yes" and the amount is greater than that probable amount now due on the judgment, as indicated in section (A) of this form, sign and return this form and pay that probable amount now due to the clerk of this court.
5. If the answer to line 1 is "yes" but the money, property, or credits are of such a nature that they cannot be delivered to the clerk of the court, indicate that by placing an "X" in this space: _____ Do not dispose of that money, property, or credits or give them to anyone else until further order of the court.
6. If the answer to line 1 is "no," sign and return this form to the clerk of this court.

I certify that the statements above are true.

Print Name of Garnishee

Print Name and Title of Person Who
Completed Form

Signature of Person Completing Form

Dated this day of _____, 2015.

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NOTICE TO THE JUDGMENT DEBTOR

You are hereby notified that this court has issued an order in the above case in favor of The Dispatch Printing Company, the judgment creditor in this proceeding, directing that some of your money in excess of four hundred dollars, property, or credits, other than personal earnings, that now may be in the possession of the United States Marshals Service, 85 Marconi Boulevard,

Room 460, Columbus, Ohio 43215, the garnishee in this proceeding, be used to satisfy your debt to the judgment creditor. This order was issued on the basis of the judgment creditor's judgment against you that was obtained in the United States District Court for the Southern District of Ohio in Case No. 2:06-cv-292 on June 25, 2013. Upon your receipt of this notice, you are prohibited from removing or attempting to remove the money, property, or credits until expressly permitted by the court. Any violation of this prohibition subjects you to punishment for contempt of court.

The law of Ohio and the United States provides that certain benefit payments cannot be taken from you to pay a debt. Typical among the benefits that cannot be attached or executed upon by a creditor are the following:

- (1) Workers' compensation benefits;
- (2) Unemployment compensation payments;
- (3) Cash assistance payments under the Ohio works first program;
- (4) Benefits and services under the prevention, retention, and contingency program;
- (5) Disability financial assistance administered by the Ohio department of job and family services;
- (6) Social security benefits;
- (7) Supplemental security income (S.S.I.);
- (8) Veteran's benefits;
- (9) Black lung benefits;
- (10) Certain pensions.

There may be other benefits not included in the above list that apply in your case.

If you dispute the judgment creditor's right to garnish your property and believe that the judgment creditor should not be given your money, property, or credits, other than personal earnings, now in the possession of the garnishee because they are exempt or if you feel that this order is improper for any other reason, you may request a hearing before this court by disputing the claim in the request for hearing form, appearing below, or in a substantially similar form, and delivering the request for hearing to this court at the above address, at the office of the clerk of this court no later than the end of the fifth business day after you receive this notice. You may state your reasons for disputing the judgment creditor's right to garnish your property in the space provided on the form; however, you are not required to do so. If you do state your reasons for disputing the judgment creditor's right, you are not prohibited from stating any other reason

at the hearing. If you do not state your reasons, it will not be held against you by the court, and you can state your reasons at the hearing. NO OBJECTIONS TO THE JUDGMENT ITSELF WILL BE HEARD OR CONSIDERED AT THE HEARING. If you request a hearing, the hearing will be limited to a consideration of the amount of your money, property, or credits, other than personal earnings, in the possession or control of the garnishee, if any, that can be used to satisfy all or part of the judgment you owe to the judgment creditor.

If you request a hearing by delivering your request for hearing no later than the end of the fifth business day after you receive this notice, it will be conducted in the Joseph P. Kinneary United States Courthouse, courtroom_____, 85 Marconi Boulevard, Columbus, Ohio 43215, at __:_____.m. on _____, _____. You may request the court to conduct the hearing before this date by indicating your request in the space provided on the form; the court then will send you notice of any change in the date, time, or place of the hearing. If you do not request a hearing by delivering your request for a hearing no later than the end of the fifth business day after you receive this notice, some of your money, property, or credits, other than personal earnings, will be paid to the judgment creditor.

If you have any questions concerning this matter, you may contact the office of the clerk of this court. If you want legal representation, you should contact your lawyer immediately. If you need the name of a lawyer, contact the local bar association.

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REQUEST FOR HEARING

I dispute the right of the Judgment Creditor The Dispatch Printing Company to garnish my money, property, or credits, other than personal earnings, in the above case and request that a hearing in this matter be held _____ [on or earlier than] the date and time set forth in the document entitled "NOTICE TO THE JUDGMENT DEBTOR" that I received with this request form.

I dispute the judgment creditor's right to garnish my property for the following reasons:

I UNDERSTAND THAT NO OBJECTIONS TO THE JUDGMENT ITSELF WILL BE HEARD OR CONSIDERED AT THE HEARING.

Thomas G. Thompson

Signature

Date

WARNING: If you do not deliver this request for hearing or a request in a substantially similar form to the office of the clerk of this court within five (5) business days of your receipt of it, you waive your right to a hearing and some of your money, property, or credits, other than personal earnings, now in the possession of (garnishee's name) will be paid to (judgment creditor's name) to satisfy some of your debt to (judgment creditor's name).